



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/817,229	04/02/2004	Virgil E. O'Neil	HENTE-095A	3023
7663 7590 11/13/2008 STETINA BRUNDA GARRED & BRUCKER 75 ENTERPRISE, SUITE 250 ALISO VIEJO, CA 92656				
EXAMINER				
KING, ANITA M				
ART UNIT		PAPER NUMBER		
3632				
MAIL DATE		DELIVERY MODE		
11/13/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/817,229

Applicant(s)

O'NEIL ET AL.

Examiner

Anita M. King

Art Unit

3632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 April 2008 and 10 July 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25, 27-38 and 40 is/are pending in the application.
- 4a) Of the above claim(s) 9, 13, 16, 17, 20, 22-24, 27-34 and 37 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 19, 21, 25, 35, 36, 38 and 40 is/are allowed.
- 6) ☒ Claim(s) 1-6 and 11 is/are rejected.
- 7) ☒ Claim(s) 7, 8, 10, 12, 14, 15 and 18 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Examiner's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

This is the fourth office action for application number 10/817,229, Suspended Platform for Water Heaters, filed on April 2, 2004.

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on April 2, 2008 has been entered.

Election/Restrictions

Claims 9, 13, 16, 17, 20, 22-24, 27-34, and 37 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention/species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on July 17, 2006.

Cancellation of Claims

Claims 26 and 39 have been canceled per applicant's request.

Claim Objections

Claims 1, 19, and 35 are objected to because of the following informality: each of the these claims contains the status identifier of "(Currently Amended)" however, there are no markings in the claims to indicate that the claims were amended in the amendment filed July 10, 2008, note the amendment filed April 2, 2008 in regards to the

claims was not entered because the amendment was non-compliant. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 1 is rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for a suspended platform being in combination with an appliance being placed on the base of the platform for suspension, does not reasonably provide enablement for a suspended platform comprising an appliance, i.e., the appliance being an element of the platform used for the purpose of suspending the platform from a plurality of support members. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make the invention commensurate in scope with these claims. The appliance itself, is not a structural element of the suspended platform but rather an element for which the platform supports and the claims should be written as such.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-6 and 11, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 4,127,252 to Splawn in view of U.S. Patent 6,758,010 to Wright. Splawn discloses a suspended platform for suspending an

appliance from a plurality of support members (16), the platform comprising: an appliance (S) placed on a base (12) of a lower frame, the having sufficient strength to support the appliance thereon when the lower frame is suspended from the support members (16) and the entire weight of the appliance carried only by the base; at least three connectors disposed within at least one side of the base and configured to removably fasten to a different one of the support members; wherein the at least three connectors provide a means for passing support members through a portion of the lower frame; and wherein the base is rectangular.

Splawn discloses the claimed invention except for the limitations of the base having side walls extending from the base and joined to form a fluid container and wherein the connectors comprise tubes. Wright teaches a suspended platform (10) comprising: a lower frame having a base (30) with side walls (22) extending from the base and joined to form a fluid tight container, the base having sufficient strength to support a small appliance thereon when the lower frame is suspended from support members (18); at least three connectors (86) each fastened to at least one of the side walls, each connector being configured to removably fasten a different one of the support members; wherein the at least three connectors comprise connector means (88) for passing the support members through a portion of the lower frame; wherein the side walls of the lower frame form a plurality of corners, the connectors comprise tubes located at those corners and connected to the side walls, the tubes being sized to allow passage of the support members; wherein the base is rectangular; and at least four depending support members (18) arranged in a rectangle, the support members each

having a distal end fastened to a different one of the four connectors. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the base in Splawn to have included the base as taught by Wright for the purpose of providing an alternative mechanically equivalent means for suspending the appliance from an overhead structure.

Splawn in view of Wright disclose the claimed invention except for the limitation of the platform being able to suspend an appliance which weighs about 500 pounds or more. It is know that the materials used in constructing the platform would allow the platform to hold a specific weight. A simple substitution for one well know equivalent for another would have been obvious to one having ordinary at the time the invention was made in an effort to obtain predictable results.

Allowable Subject Matter

Claims 7, 8, 10, 12, 14, 15, and 18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 19, 21, 25, 35, 36, 38, and 40 are allowed.

Response to Arguments

Applicant's arguments with respect to claims 1-6 and 11 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anita M. King whose telephone number is (571) 272-6817. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. Allen Shriver can be reached on (571) 272-6698. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Anita M. King/
Primary Examiner, Art Unit 3632

November 13, 2008